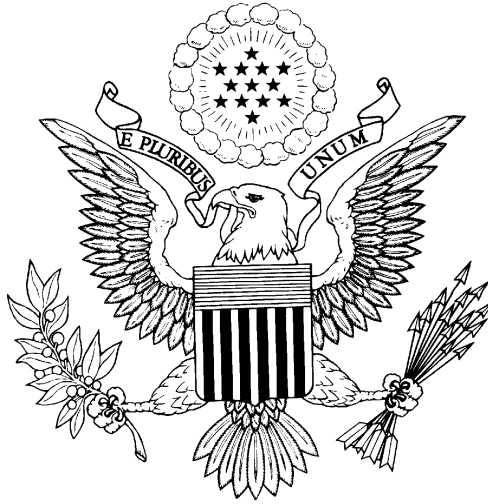


UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS



Court Reporter Management Plan
Miscellaneous Order No. 34

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I. INTRODUCTION

To meet with the changing needs of the Court and Judicial Conference requirements, the Court hereby amends its management plan for court reporters in the Northern District of Texas. The management plan covers the following points with regard to the official court reporters (including the electronic court recorder operators [ECRO]) of this district:

1. Each official court reporter is primarily assigned to a Judge, prohibited from private reporting activities and serves the District Court en banc.
2. Overall management of official court reporters is delegated to the Clerk of Court. The supervisory responsibility of the Clerk lies primarily in the area of pooling, fee and format compliance, compliance with Judicial Conference policies, and efficient service to the entire court.
3. Official court reporters of this district will fulfill their statutory duties as prescribed in 28 U.S.C. Section 753 and adhere to the Judicial Conference requirements and the requirements of this Court.

The Chief Judge will continue to serve as a direct liaison between the Clerk and Court in general policy matters pertaining to management and supervision of official court reporters.

The geographical configuration of this District must be taken into consideration in any management plan. The Northern District of Texas is comprised of seven (7) administrative divisions with seven (7) statutory locations for holding court, in Abilene, Amarillo, Dallas, Fort Worth, Lubbock, San Angelo, and Wichita Falls. There is a Judge and an official court reporter in residence in each administrative division with the exception of Abilene, San Angelo and Wichita Falls.

The primary purpose of this plan is to provide effective court reporting service to the entire Court. Consistent with this consideration, every effort will be made to minimize cost.

II. TERMS AND CONDITIONS OF EMPLOYMENT

All court reporters appointed to serve this Court must meet the Judicial Conference qualifications set out in the Court Reporter's Manual in the Guide to Judiciary Policies and Procedures - Volume VI, and will serve a probationary period of one year. Reporters not performing in a satisfactory manner will be dismissed.

In this district, each official court reporter is primarily assigned to a Judge, prohibited from private reporting activities and is appointed to serve the District Court en banc. Because reporters are called upon increasingly to serve all judicial officers, new judges are not routinely entitled to bring with them a reporter from the outside; if, however, there is a vacancy and the court reporter meets all established requirements, the Court en banc may then choose to approve the appointment of the outside court reporter.

III. DUTY STATION

At each statutory location of holding court where a Judge resides, court reporting services must be available. Accordingly each court reporter shall have a statutory location of holding court designated as an official "duty station." At the "duty station," the court reporter shall be primarily responsible to the Judge to whom he or she is assigned.

In order to minimize travel expenses and ensure availability of court reporting services where a Judge is sitting, no travel should be undertaken by a court reporter unless authorized by a Judge of this Court, and/or, the Clerk of Court.

IV. SUPERVISION

The Clerk of the Court, under the direction of the Judges of the Court, shall exercise supervision of court reporters as specified in the Court Reporter Act, including requirements

established by the United States Court of Appeals for the Fifth Circuit and Court Reporters' Manual in the Guide to Judiciary Policies and Procedures - Volume VI (i.e. fees charged for transcripts, adherence to transcript format prescriptions and delivery schedules.

In the event of a dispute arising out of this supervision, the Chief Judge shall act as final arbiter.

V. POOLING OF REPORTERS

In order to equitably apportion court reporting tasks at the same site, a system of "pooling" shall be established whenever two or more court reporters share the same duty station.

Upon approval of the Court, the Clerk of Court may reassign reporters to other Judges in order to promote efficiency, savings and costs, and, to the extent practicable, equalize the workload among the available court reporters. A strict mathematical formula need not be applied, and practicalities should be considered, such as allowing a court reporter to remain with an assignment until conclusion or until relief is requested. Each court reporter in a system of pooling shall submit to the Clerk whatever attendance reports and/or reports concerning transcript backlog required to operate the system.

Court reporters in the divisional offices will be called upon to substitute when possible and feasible.

VI. CONTRACT OR PER DIEM COURT REPORTERS

Whenever court reporter services are required in the District, the Clerk of Court shall meet this need from available court reporting resources. In determining availability of court reporter services, the Clerk shall take into consideration the geography of the District. No

statutory location of holding court with a resident Judge shall be left without court reporting services as a result of court reporter travel assignments, unless such resident Judge is out of the District or has authorized such travel. If needed court reporter services are unavailable, the Clerk shall utilize a contract or per diem court reporter.

VII. TRANSCRIPT

The court reporter is required to certify on each invoice that the fee charged and the page format used conforms to the regulations of the Judicial Conference."

A. Format Compliance

All official court reporters will be furnished Judicial Conference transcript format requirements (see Court Reporters' Manual, Guide to Judiciary Policies and Procedures). The Clerk of Court will monitor transcripts to ensure compliance with these requirements.

B. Fee Compliance

Absolute and unyielding adherence to the prescribed rates of the Judicial Conference will be practiced. Monitoring by the Clerk of Court has been established in the following areas:

- 1. Written Requests for Transcripts.** Written requests for transcripts are made through the Clerk's office or court reporter. Order forms will be available from the Clerk. All transcripts for appeals will be ordered on the appropriate form designated by the Court of Appeals for the Fifth Circuit. Transcripts purchased by Criminal Justice Act funds will be ordered on the appropriate CJA form. (Non-appeal transcripts purchased by private funds may be ordered by letter). Transcript orders will include the case number,

case name, date of proceedings to be transcribed, any additional pertinent information required to identify the material to be transcribed, and the name of the court reporter whenever possible.

2. **Estimate of Cost:** Upon receipt of a transcript order, the court reporter will furnish the ordering party an estimate of charges. On privately paid transcript orders, unless deposit has been specifically waived by the court reporter, transcript preparation will not commence until financial arrangements have been made and the necessary deposit is received by the court reporter. Deposit checks should be made payable to the individual court reporter preparing the transcript.

3. **Transcript Order Cancellations:** No fee may be charged by official court reporters on transcript orders if pages have not been produced at the time the reporter learns that the transcript order is canceled. The ordering party is expected to pay for all transcript pages which have been produced at the time the order is canceled. The reporter will stop production immediately upon notification of cancellation and title the transcript, "Excerpt of Proceedings."

4. **Daily Copy Requests:** Daily or hourly copy falls within the definition of entrepreneurial activities, and no additional official court reporter will be assigned to the task. The court reporter accepting the order for daily copy will be responsible for employing the necessary assistance.

5. **Routine Apportionment of CJA Costs:** In compliance with Judicial Conference policy, routine apportionment among the parties of accelerated transcript costs in Criminal Justice Act cases is prohibited.

6. Timely Transcript Delivery: Reporters of this district are charged with the responsibility of preparing all transcripts in a prompt and timely manner, particularly ensuring that appeals delivery deadlines are met. Otherwise, appropriate monetary sanctions of the Circuit will ensue except in those rare instances when a waiver of discount is granted by the Circuit Clerk upon specific request of the court reporter and for good cause shown. The timely delivery of transcripts will be monitored by the Clerk of Court with audit of charges to ensure compliance with Judicial Conference fee schedules and Court of Appeals' discounts. (The method of transcript delivery shall be at the discretion of the Clerk, whether by the court reporters themselves or by the Clerk's office.) Any official court reporter not complying with the timely production and delivery of the transcripts required by the Circuit Court of Appeals, shall be responsible for employing necessary assistance if none is available from the pooling.

7. Invoicing: A final invoice, AO Form 44, or CJA Form 24 reflecting exact charges and any adjustments by either refund or additional billings will be prepared for all transcript deliveries. Fee adjustments will be made at the time of transcript delivery. All invoices for transcripts, whether originals or copies, will be sequentially numbered. In the event of delivery by the Clerk's office, all copies of the transcript and the invoice will be given to the Clerk of Court immediately when ready for delivery. In the event of delivery by the court reporter, a copy of the invoice will be given to the Clerk following delivery of a copy transcript. When the original transcript has been produced, the Court's copy of the transcript to be filed will be given to the Clerk of

Court when the transcript is completed for delivery. A copy invoice, a CJA 24 form or an original invoice billed to the Clerk for civil in forma pauperis appeals, will accompany the transcript as appropriate. An invoice (AO Form 44) or CJA 24 shall accompany all transcripts for filing with the Clerk of Court. Any invoice that evidences overcharging or that must be discounted as set forth above, will be returned to the court reporter for correction. The court reporter must thereafter report to the Clerk of Court and the Clerk of the Court of Appeals that the overcharge has been corrected or refund made to the attorney/litigant for the discounted amount.

Each transcript shall contain the following statement:

"I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. I further certify that the transcript fees format comply with those prescribed by the Court and the Judicial Conference of the United States.

Signature _____ Date _____"

VIII. FILING OF COURT REPORTER NOTES AND BACK-UP TAPES OF ARRAIGNMENTS, PLEAS AND SENTENCING

All court reporters, official and non-official, will file their original notes and electronic sound recordings of criminal arraignments, pleas and sentencing or transcript of these criminal proceedings as set out in 28 U.S.C. § 753(b) with the Clerk within ninety days after the conclusion of the proceeding. Official court reporter offices provided by the Clerk of Court have been designated as an adjunct of the Clerk's office for purposes of interim storage beyond the 90-day period.

IX. TAPE RECORDED PROCEEDINGS

All records of proceedings taken by electronic sound recording equipment shall be stored in the office of the Clerk in a standardized manner to ensure easy location and retrieval. These records will be retained in accordance with the requirements of the records disposition schedule set forth in the Guide to Judiciary Policies and Procedures. Transcript orders from tape recorded proceedings will be ordered and delivered through the office of the Clerk. Transcript quality and timeliness will be ensured through records kept by the Clerk and by spot check, proofreading of transcripts with the original court tapes. Transcript fees and format of transcribing services preparing transcripts from tape recorded proceedings will be monitored by the Clerk.

X. LEAVE FOR OFFICIAL COURT REPORTERS

Court reporters will be responsible for scheduling their leave to coincide with the Judge's leave except in emergency situations. Leave will be scheduled at the convenience and with the approval of the Judge. However, special consideration may be given to those reporters who may not have an opportunity to take scheduled leave due to the work habits of the Judge to whom they are assigned.

If the Judge's leave schedule changes and the court reporter does not wish to change his/her leave plans, it will be the responsibility of the court reporter to provide a suitable substitute reporter approved by the Court and to make personal financial arrangements for payment of the substitute. The court reporter will notify the Clerk of Court of the final arrangements.

Court reporters will be granted leave on a first-request basis as the Court schedule allows. Leave requests from court reporters who are under the Leave Act will be considered before granting approval of other leave requests.

XI. REPORTS TO BE FILED WITH THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

Every official court reporter in this district is required to timely file the reports and keep the records required by the Administrative Office of the United States Courts as set forth in the Guide to Judiciary Policies and Procedures - Court Reporters Manual - Vol. VI - Section XXII, Records and Reports. These reports and records will be provided to the Clerk of Court for review as set forth in the Court Reporters' Manual.

XII. DIVISIONAL REPORTERS

Deputies-In-Charge of divisional offices are charged with the responsibility of monitoring official court reporter time, scheduling and coordinating leave, checking transcript format, and monitoring fees charged. Deputies-In-Charge will secure contract/per diem reporters when needed after consultation with the Clerk of Court or her designee, except in extreme emergency situations which require immediate action. In these instances, the Clerk will be notified of action taken as soon as possible thereafter.

XIII. SANCTIONS

Violations of this Plan shall be referred to the Chief Judge for appropriate action. These actions shall include, but not be limited to, those set forth in the Guide to Judiciary

Policies and Procedures - Court Reporters Manual - Volume VI., by the Judicial Conference and the Fifth Circuit Court of Appeals.

XIV. EFFECTIVE DATE

This Amended Plan shall be effective upon filing with the Clerk of Court after approval of the Circuit Council of the Fifth Circuit Court of Appeals and supersedes the Plan filed March 21, 1984.